IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

OP.No. 28485 of 2002(N)

PETITIONER:

SREE NARAYANA TRADERS AND FINANCIERS LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
M.K.DIVAKARAN.

BY ADV. SRI.SUNIL JACOB JOSE

RESPONDENT:

V.C.KRISHNAN ACHARI, USHA BHAVAN,
KUMBAZHA, KOZHENCHERRY, PATHANAMTHITTA DISTRICT

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.48485/02 IN O.P.28485/02

DISMISSED

6.6.2007 SD/-PIUS C.KURIAKOSE, JUDGE

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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O.P.No.28485 OF 2002

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DATED THIS THE 6TH JUNE, 2007

J U D G M E N T

It is reported by the Registry that the respondent is no more. The learned counsel for the petitioner submits that even though notice which was issued to the respondent has been returned with the endorsement that the respondent is no more, according to his information, the respondent is very much alive and kicking and is regularly appearing before the court below.

2. I do not propose to go into the above controversy. The fact remains that during the past five years the respondent has not been served and the proceedings in the court below are under stay. The petitioner-Company's claim is that the petitioner is a creditor of the respondent who has obtained decree in L.A.R.No.1 of 1993 on the file of the Sub Court, Pathanamthitta. According to the petitioner-Company, the Company has filed an application for attachment and even as the same is pending, the learned Sub Judge is executing the decree in the above L.A.R. and is going to disburse the amount under deposit to the respondent. The respondent who has obviously been informed about the passage of stay by this Court does not appear to be enthusiastic in entering appearance before this Court and get the

stay vacated.

3. Under these circumstances, I am of the view that this Original Petition can be disposed of even without completing service on the respondent or his legal heirs, if he is no more as reported by the Registry. If no orders have so far been passed by the execution court in the application filed by the petitioner seeking attachment of the decree amount in L.A.R.1 of 1993, the court will pass orders on that application after hearing both sides at the earliest and at any rate within three weeks of receiving copy of this judgment. The court below will pass orders on the cheque application, if any, filed for withdrawal/disbursement of the amount under deposit, only after two weeks of passage of orders in the attachment application.

The Original Petition is disposed of as above. No costs.

(PIUS C.KURIAKOSE, JUDGE)

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